

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

MANISH P. PATEL, M.D.,)	
)	
Plaintiff,)	CIVIL ACTION NO: 18-357
)	
v.)	
)	
CAROLINA UROLOGY PARTNERS,)	
PLLC, TODD D. COHEN, M.D.,)	
ROBERT L. WATERHOUSE, M.D., and)	
KATHERINE HARPER,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendant Carolina Urology Partners, PLLC (hereafter “CUP”), by and through its undersigned counsel, hereby removes Case No. 16-CVS-22080 from the General Court of Justice, Superior Court Division of Mecklenburg County, North Carolina, to the United States District Court for the Western District of North Carolina pursuant to 28 U.S.C. §§ 1331, 1441(a), 1367(c) and 1446. In support of this Notice of Removal, Defendant states as follows:

Statement of the Case

1. On December 12, 2016, Plaintiff Manish P. Patel, M.D. (hereafter “Plaintiff” or “Patel”) filed a Complaint in the Superior Court for Mecklenburg County, North Carolina styled *Manish P. Patel, M.D. v. Carolina Urology Partners, PLLC, Todd D. Cohen, M.D., Robert L. Waterhouse, M.D., and Katherine Harper*, Case No. 16-CVS-22080 (the “State Court Action”), in which Plaintiff alleged causes of action arising solely under the law of the State of North Carolina.

2. On June 7, 2018, Plaintiff’s counsel first provided Defendants’ counsel with a copy of the Amended Complaint in which Plaintiff alleged, for the first time in the State Court Action,

violations of federal law including 31 U.S.C. § 3730(h). (“The False Claims Act”). To date, Plaintiff has expressed no intent to abandon the claim arising under 31 U.S.C. § 3730(h). A copy of the Amended Complaint is attached as **Exhibit A** hereto.

3. Defendants were provided a copy of the Amended Complaint on June 7, 2018. Therefore, on June 7, 2018 Defendants received, “through service or otherwise, ...a copy of an amended pleading... or other paper from which it may first be ascertained that the case is one which is or has become removable” pursuant to 28 U.S.C. § 1446(b)(3).

4. In this action, Plaintiff alleges claims pursuant to The False Claims Act, claiming he was retaliated against for engaging in protected activity in violation of 31 U.S.C. § 3730(h). Plaintiff also alleges claims for wrongful discharge in violation of North Carolina public policy, tortious interference with contract, malicious prosecution, conversion, trespass to chattels, fraud, negligent misrepresentation in the alternative to fraud, intentional infliction of emotional distress, and civil conspiracy.

Federal Question Jurisdiction

5. This Court has original jurisdiction over this matter under 28 U.S.C. § 1331, because the allegations of Plaintiff’s Amended Complaint arise under federal law.

6. Plaintiff’s Amended Complaint alleges claims pursuant to The False Claims Act, 31 U.S.C. § 3730(h). *See Exhibit A* at ¶¶ 1, 59-73, and 138-141. As a result, Plaintiff’s Amended Complaint arises under federal law, and is therefore removable as falling within this Court’s subject-matter jurisdiction. *See* 28 U.S.C. §§ 1331, 1441, and 1446(b)(3).

7. This Court has supplemental jurisdiction over any state law claims contained in the Amended Complaint pursuant to 28 U.S.C. § 1367, as they form part of the same case or

controversy and arise in whole or in part from a common nucleus of operative facts as the federal claim.

All Procedural Requirements for Removal Have Been Satisfied

8. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings, orders, and documents from the State Court Action which have been served upon Defendants are being filed with this Notice of Removal.

9. This Notice of Removal has been filed within 30 days of the date that Defendants received the Amended Complaint in this matter. Removal is therefore timely in accordance with 28 U.S.C. § 1446(b).

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the U.S. District Court for the Western District of North Carolina is the federal judicial district embracing the Superior Court for Mecklenburg, North Carolina, where the State Court Action was originally filed.

11. Defendants Todd D. Cohen, M.D., Robert L. Waterhouse, M.D., and Katherine Harper are all represented by counsel for Defendant CUP and all consent to, and join in, the removal of this action to this Court.

12. Defendant CUP will file and serve notice of this removal as required by 28 U.S.C. § 1446(d).

Conclusion

By this Notice of Removal, Defendants do not waive any objections that they may have as to service, jurisdiction or venue, or any other defenses or objections that they may have to this action. Defendants intend no admission of fact, law or liability by this Notice, and expressly reserve all defenses, motions and/or pleas.

Respectfully submitted this 3rd day of July, 2018.

/s/ Kevin V. Parsons
NC State Bar No. 19226
Philip A. Hinson
NC State Bar No. 42907
Parsons Summa
15801 Brixham Hill Avenue, Suite 550
Charlotte, North Carolina 28277
Telephone: 704-557-9929
Email: kparsons@parsonssumma.com
phinson@parsonssumma.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing "Notice of Removal" in the above-captioned proceeding has been served this day by first-class mail, postage prepaid upon the following:

Joshua R. Van Kampen (NC Bar No. 32168)
josh@vankampenlaw.com
Kevin P. Murphy (NC Bar No. 41467)
kevin@vankampenlaw.com
Sean F. Herrmann (NC Bar No. 44453)
sean@vankampenlaw.com
Van Kampen Law, PC
315 East Worthington Avenue
Charlotte, North Carolina 28203
Phone: (704) 247-3245
Fax: (704) 749-2638
Attorneys for Plaintiff

This the 3rd day of July, 2018.

/s/ Kevin V. Parsons
NC State Bar No. 19226
Philip A. Hinson
NC State Bar No. 42907
Parsons Summa
15801 Brixham Hill Avenue
Suite 550
Charlotte, North Carolina 28277
Telephone: 704-557-9929
Email: kparsons@parsonssumma.com
phinson@parsonssumma.com